

In re Patent Application of:  
**ZAKHAROFF**  
Serial No. 10/786,450  
Filed: **February 25, 2004**

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**REMARKS**

The Examiner is thanked for the thorough examination of the present application. The Examiner is also thanked for the courtesies extended during the telephonic interview of September 27, 2011, during which the current claim rejections were discussed, and wherein the Examiner agreed that the claim amendments made herein would define over the prior art. No new subject matter has been added.

**I. The Claimed Invention**

The invention, as recited in amended independent Claim 1, for example, is directed to a communications system which includes at least one destination server for hosting a plurality of electronic mail (email) message boxes, and a plurality of communications devices for generating email messages each associated with a respective message box. The system further includes a delivery server including a plurality of queues and a controller. More particularly, the controller is for storing the email messages generated by the communications devices in a first queue, and attempting to send the stored email messages to the at least one destination server at a first sending attempt rate. The controller also moves email messages stored in the first queue to a second queue based upon receipt of a delivery failure message.

The controller then attempts to send email messages stored in the second queue to the at least one destination server at a second sending attempt rate that is less than the first sending attempt rate. The second queue is one of a plurality of

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queues arranged in a hierarchy. Each queue in the plurality of queues has a storage interval that successively increases from a highest queue to a lowest queue, and the storage interval is independent of the first and second sending attempt rates.

The controller also moves email messages from a higher queue to a next lower queue after being stored in the higher queue for a duration of its storage interval. The controller also advantageously moves email messages having a common characteristic with a successfully delivered email message to the first queue.

Amended independent Claim 10 is directed to a corresponding delivery server of independent Claim 1. Amended independent Claim 17 is directed to a corresponding method of independent Claim 1, and amended independent Claim 24 is directed to a related computer-readable medium. Independent Claims 10, 17, and 24 have been amended similarly to amended independent Claim 1.

## **II. The Amended Claims Are Patentable**

The Examiner rejected independent Claims 1, 10, 17, and 24 over a four-way combination of Shaw et al., D'Souza et al., Rouse, and Sherwood.

Independent Claims 1, 10, 17, and 24 have been amended to recite the storage interval is independent from the first and second sending attempt rates. Applicant submits, and the Examiner agreed, that even a selective combination of the four prior art references fails to disclose each queue of the plurality of queues having a storage interval that successively

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increases from a highest queue to a lowest queue, the storage interval being independent from the first and second sending attempt rates. Instead, D'Souza et al., which the Examiner contended discloses each queue of the plurality of queues having a storage interval that successively increases from a highest queue to a lowest queue, discloses packets being sent to different queues, one of which is serviced at a highest rate, and another of which being serviced at a lower rate. (See D'Souza et al., paragraph 0028). As agreed by the Examiner, nowhere in D'Souza et al. does it disclose each queue of the plurality of queues having a storage interval that successively increases from a highest queue to a lowest queue, and the storage interval being independent from the first and second sending attempt rates, but rather queues serviced at different rates. In other words, as agreed by the Examiner, nowhere in D'Souza et al. does it disclose the duration the packets are in the queues being independent from the service rate. The other three references fail to supply these critical deficiencies. Accordingly, amended independent Claims 1, 10, 17, and 24 are patentable for at least this reason alone.

It is submitted that amended independent Claims 1, 10, 17, and 24 are patentable. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

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**CONCLUSION**

In view of the arguments and amendments provided herein, it is submitted that all the claims are patentable. Accordingly, a Notice of Allowance is requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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